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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/667,923

09/22/2003

Lee M. Amaitis

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER

RENDON, CHRISTIAN E

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

02/28/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

glenda.orrantia@hotmail.com
mike.furr@bakerbotts.com
ptomail1@bakerbotts.com

5/2

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/667,923	Applicant(s) AMAITIS ET AL.	
	Examiner Christian E. Rendón	Art Unit 3714	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

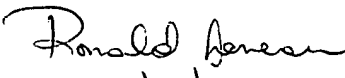
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: None.
- Claim(s) objected to: None.
- Claim(s) rejected: 1-52.
- Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____


 2/16/07

Continuation of 11. does NOT place the application in condition for allowance because: Downes discloses a Pari-Mutuel Betting System for use in new sporting events like horse or dog races, etc. The wagering is enabled with respect to performance statistics of an individual or group of participants. This information is found in the abstract of the art which reads on the applicant's claims as well as the following:

1) "receiving one or more first type of bets, total number of units earned .. over the course of a plurality of events will fall within a first range of numbers" because a Pari-Mutuel System inherently allows a person to place a bet on any number of situations and a bettor wins when they are right about a player coming in first (the range is first to last) or a player scoring a number of points (the range of 0 to infinity)

2) any references to placing a second or any number of other bets (third time, fourth time, etc) since the Pari-Mutual System inherently does not restrict how many bets a person can place on an event or combination of events

3) "the total number of units earned" also inherently found in the art as one of the steps towards figuring out which participate won the event and a participate's rank is based on the player's performance therefore it is a representation of a total number of units earned by the player

4) in terms of "prize money" the art suggests horse racing as one of the possible sporting events this system could be used for and prize money is an inherent outcome of horse races

5) in terms of a plurality of events, a pari-mutuel system also inherently allows bettors to place parlay or accumulator bets which involves placing a series of bets on a string of events

6) the Examiner would like to clarify that the use of the word "obvious" in the "Response to Argument", the word was used to express the inherentness of the Pari-Mutuel System as a way to make it easier for the Examiner to explain this larger system in a concise matter

7) A motivation to combine the two art was made in the Non-Final Rejection and was stated as follow: One would be motivated to incorporate this type of wager in Downes in order to increase the excitement and number of possible wagers available to the player in a wagering game. Paragraph 5 of the "Response to Arguments" explains how this combination would work.